

REMARKS

This Application has been carefully reviewed in light of the Office Action mailed February 4, 2005. Applicants respectfully request reconsideration and favorable action in this case in view of the following remarks.

Section 112, ¶2 Rejections

The Office Action rejects Claims 1-41 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Applicants respectfully traverse these rejections for the reasons stated below.

In Claims 1 and 20, the first energy consumption model is based on at least three inputs: the facility data, the energy consumption data, and the external variable data. The second energy consumption model is based on at least two inputs: the facility data and the external variable data. Because the first and second energy consumption models are based on different inputs, they can have different outputs. Thus, they can be compared to determine and energy consumption efficiency.

Therefore, Claims 1 and 20 positively recite a combination of steps that cooperate with one another in such a clear and precise manner that one having ordinary skill would be apprised of the use and scope of the invention, when read in light of the specification, especially at pages 19-20. Applicants respectfully request that the Section 112, ¶2 rejections be withdrawn. Reconsideration and favorable action is respectfully requested.

Section 102(b) Rejections

The Office Action rejects Claims 1-41 under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 6,785,592 issued to Smith et al. ("*Smith*"). Applicants respectfully submit that *Smith* does not anticipate independent Claim 1 because *Smith* does not disclose, teach, or suggest each and every claim limitation of independent Claim 1.

First, Claim 1 recites, "generating facility data associated with the facility." Nowhere in *Smith* is this limitation disclosed, taught, or suggested. The *Smith* methodology may use some facility data in its energy use modeling (see, e.g., col. 15, lines 56-62), but nowhere does *Smith* state that facility data is generated.

Second, Claim 1 recites, “generating a first energy consumption model based on the facility data, the energy consumption data, and the external variable data.” Nowhere in *Smith* is this limitation disclosed, taught, or suggested. *Smith* may, in fact, generate energy consumption models, but nowhere in *Smith* does it state either explicitly, implicitly, or inherently that these energy consumption models are based on facility data, energy consumption data, and external variable data.

Third, Claim 1 recites, “generating a second energy consumption model based on the facility data and the external variable data.” Nowhere in *Smith* is this limitation disclosed, taught, or suggested. *Smith* does disclose at col. 8, lines 58-59 the determination of a baseline or benchmark, but nowhere in *Smith* does it state either explicitly, implicitly, or inherently that these baselines or benchmarks are energy consumption models that are based on facility data and external variable data.

Thus, *Smith* does not teach each and every claim limitation of Claim 1 and, hence, does not anticipate independent Claim 1. Reconsideration and favorable action are respectfully requested.

Dependent Claims 2-19 are also not anticipated by *Smith* because they include the limitations of independent Claim 1 as well as additional limitations that further distinguish *Smith*. Therefore, Applicants respectfully request that the objection of these claims be withdrawn.

Applicants respectfully submit that independent Claim 20 is allowable for reasons analogous to those above in conjunction with Claim 1. Thus, *Smith* does not anticipate independent Claim 20. In addition, dependent Claims 21-41 are also not anticipated by *Smith* because they include limitations of independent Claim 20 as well as additional limitations that further distinguish *Smith*. Therefore, reconsideration and favorable action are respectfully requested.

Additional Comments on Dependent Claims

In addition to depending from an allowable independent claim, as noted above, at least the following dependent claims are also allowable for the following additional reasons. Reconsideration and favorable action are respectfully requested.

Claims 2 and 21: nowhere does *Smith* teach or suggest the validation of energy consumption data.

Claims 3 and 22: nowhere does *Smith* teach or suggest the validation of energy consumption data via the reconstruction of missing data.

Claims 7 and 26: nowhere does *Smith* teach or suggest generating facility data using energy consumption data.

Claims 12 and 31: nowhere does *Smith* teach or suggest the validation of environmental data.

Claim 14: nowhere does *Smith* teach or suggest the use of comparable facilities to generate energy consumption models of other facilities.

Claims 18, 24 and 25: nowhere does *Smith* teach or suggest disaggregation of energy consumption data.

CONCLUSIONS

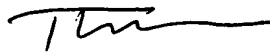
Applicants have made an earnest attempt to place this case in condition for allowance. For the foregoing reasons, and for other apparent reasons, Applicants respectfully request full allowance of all pending Claims. If the Examiner feels that a telephone conference or an interview would advance prosecution of this Application in any manner, the undersigned attorney for Applicants stands ready to conduct such a conference at the convenience of the Examiner.

Applicant hereby takes an Extension of Time for responding to the Examiner's Office Action dated February 4, 2005 for one (1) month from May 4, 2005 to June 4, 2005. A separate Notification of Extension of Time Under 37 C.F.R. §1.136 along with a check in an amount of \$ 60.00 is hereby enclosed.

Applicants believe no other fees are currently due. However, should there be a fee discrepancy, the Commissioner is hereby authorized to charge any fees or credit any overpayments to Deposit Account No. 02-0384 of Baker Botts L.L.P.

Respectfully submitted,

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